

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

EQUAL EMPLOYMENT :
OPPORTUNITY COMMISSION : CIVIL ACTION
PLAINTIFF : NO WDQ-02-CV-648
AND :
KATHY C. KOCH :
INTERVENOR/PLAINTIFF :
V :
LA WEIGHT LOSS :
CENTERS, INC. :
DEFENDANT :

OCTOBER 7, 2005

CONTINUED 30(B)(6) ORAL
DEPOSITION OF L.A. WEIGHT LOSS CENTERS,
INC., TAKEN THROUGH ITS REPRESENTATIVE,
CHRISTINE MOFFITT, WAS HELD AT THE
OFFICES OF EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, THE BOURSE BUILDING, 111
SOUTH INDEPENDENCE MALL EAST, 21 SOUTH
5TH STREET, FOURTH FLOOR, BEGINNING AT
10:15 A.M., ON THE ABOVE DATE, BEFORE
NANCY D. RONAYNE, A PROFESSIONAL COURT
REPORTER AND NOTARY PUBLIC IN THE
COMMONWEALTH OF PENNSYLVANIA.

ESQUIRE DEPOSITION SERVICES
FOUR PENN CENTER
1600 JOHN F. KENNEDY BOULEVARD, 12TH FLOOR
PHILADELPHIA, PENNSYLVANIA 19103
(215) 988-9191

CHRISTINE MOFFITT

<p style="text-align: right;">177</p> <p>1 THE FIRST QUARTER 1999?</p> <p>2 A. ACTUALLY THE CONTROLLER OF</p> <p>3 THE COMPANY WAS IN CHARGE OF THE PAYROLL</p> <p>4 DEPARTMENT AT THAT TIME.</p> <p>5 Q. WHO WAS THAT?</p> <p>6 A. JIM HORAN.</p> <p>7 Q. CAN YOU SPELL THAT?</p> <p>8 A. H-O-R-A-N.</p> <p>9 Q. DO YOU KNOW WHETHER MR.</p> <p>10 HORAN ASKED ZURICH PAYROLL WHY INACTIVE</p> <p>11 EMPLOYEES WERE NOT CARRIED TO THE NEW</p> <p>12 SYSTEM?</p> <p>13 A. NO.</p> <p>14 Q. DO YOU KNOW OF ANYONE WHO</p> <p>15 WOULD KNOW THE ANSWER TO THAT QUESTION?</p> <p>16 A. NO.</p> <p>17 Q. BESIDES MR. HORAN OF COURSE.</p> <p>18 DID MR. HORAN OR ANYONE ELSE</p> <p>19 AT LA WEIGHT LOSS TELL YOU ANYTHING ABOUT</p> <p>20 THE UPGRADE TO THE ZURICH PAYROLL SYSTEM</p> <p>21 IN THE FIRST QUARTER OF 1999, ANYTHING AT</p> <p>22 ALL?</p> <p>23 A. ANYTHING?</p> <p>24 Q. DID ANYBODY AT LA WEIGHT</p>	<p style="text-align: right;">179</p> <p>1 VACATION -- I MEAN A VERIFICATION OF</p> <p>2 EMPLOYMENT I WOULD HAVE USED IT, A</p> <p>3 TERMINATED EMPLOYEE.</p> <p>4 Q. DO YOU REMEMBER EVER DOING</p> <p>5 THAT?</p> <p>6 A. YES.</p> <p>7 Q. WHEN YOU DID THAT DO YOU</p> <p>8 REMEMBER SEEING INACTIVE EMPLOYEES IN THE</p> <p>9 SYSTEM?</p> <p>10 A. YES.</p> <p>11 Q. AFTER THE UPGRADE TO THE</p> <p>12 ZURICH PAYROLL SYSTEM?</p> <p>13 A. NO. IN -- IN THE OLD SYSTEM</p> <p>14 WHERE THE TERMINATED EMPLOYEES WERE KEPT.</p> <p>15 Q. DO YOU REMEMBER SEEING</p> <p>16 INACTIVE EMPLOYEES IN THE SYSTEM AFTER</p> <p>17 THE UPGRADE?</p> <p>18 A. NO.</p> <p>19 Q. DID YOU EVER LOOK FOR ANY</p> <p>20 INACTIVE EMPLOYEES?</p> <p>21 A. NO.</p> <p>22 Q. SO WHAT YOU DESCRIBED ABOUT</p> <p>23 VERIFICATION OF EMPLOYMENT YOU DIDN'T DO</p> <p>24 THAT AT ALL IN 1999 AFTER THE UPGRADE; IS</p>
<p style="text-align: right;">178</p> <p>1 LOSS HAVE ANY CONVERSATIONS WITH YOU IN</p> <p>2 THE FIRST QUARTER OF 1999 ABOUT THE</p> <p>3 UPGRADE TO THE ZURICH PAYROLL SYSTEM?</p> <p>4 A. OTHER THAN IT WAS -- WHEN IT</p> <p>5 WAS GOING TO BE DONE.</p> <p>6 Q. SO --</p> <p>7 A. OTHER THAN THEM SAYING WE'RE</p> <p>8 GETTING AN UPGRADE, NO.</p> <p>9 Q. IN THE FIRST QUARTER OF</p> <p>10 1999, WHAT WAS YOUR POSITION AGAIN?</p> <p>11 A. PAYROLL CLERK.</p> <p>12 Q. AND DID YOU HAVE -- DID YOU</p> <p>13 USE THE ZURICH PAYROLL DATA?</p> <p>14 A. YES.</p> <p>15 Q. HOW DID YOU USE IT?</p> <p>16 A. TO PROCESS THE EMPLOYEES</p> <p>17 PAYCHECKS.</p> <p>18 Q. DID YOU USE IT FOR ANY OTHER</p> <p>19 PURPOSE?</p> <p>20 A. NO.</p> <p>21 Q. DID YOU HAVE ANY REASON TO</p> <p>22 VIEW OR ACCESS DATA ABOUT INACTIVE</p> <p>23 EMPLOYEES IN THE FIRST QUARTER OF 1999?</p> <p>24 A. IF I HAD TO FILL OUT A</p>	<p style="text-align: right;">180</p> <p>1 THAT RIGHT?</p> <p>2 A. YES, I WOULD HAVE BUT I</p> <p>3 WOULD HAVE USED THE OLD PAYROLL SYSTEM</p> <p>4 NOT THE CURRENT PAYROLL SYSTEM.</p> <p>5 Q. WHERE WAS THE OLD PAYROLL</p> <p>6 SYSTEM HOUSED AFTER THE UPGRADE?</p> <p>7 A. IT WAS ON A COMPUTER.</p> <p>8 Q. ON A DESKTOP COMPUTER?</p> <p>9 A. YES.</p> <p>10 Q. DID THAT COMPUTER THAT</p> <p>11 CONTAINED LA WEIGHT LOSS PAYROLL</p> <p>12 INFORMATION THAT WAS UPGRADED, DID IT</p> <p>13 CONTAINED INFORMATION ABOUT EMPLOYEES</p> <p>14 SEX?</p> <p>15 A. YES.</p> <p>16 Q. JOB TITLE?</p> <p>17 A. YES.</p> <p>18 Q. HIRE DATES?</p> <p>19 A. YES.</p> <p>20 Q. REHIRE DATES?</p> <p>21 A. I DON'T REMEMBER.</p> <p>22 Q. DID IT CONTAIN DATA ABOUT</p> <p>23 INFORMATION OR REASONS FOR TERMINATION?</p> <p>24 A. YES.</p>

<p>181</p> <p>1 Q. PROMOTIONS?</p> <p>2 A. NO.</p> <p>3 Q. OBVIOUSLY IT CONTAINED PAY</p> <p>4 INFORMATION, RIGHT?</p> <p>5 A. YES.</p> <p>6 Q. PAY CHANGES?</p> <p>7 A. NO, CURRENT RATE OF PAY.</p> <p>8 Q. BONUSES?</p> <p>9 A. NO.</p> <p>10 Q. COMMISSIONS?</p> <p>11 A. ONLY IF YOU WERE LOOKING IN</p> <p>12 THEIR CHECKVIEW INFORMATION.</p> <p>13 Q. SO IT WOULD HAVE CONTAINED</p> <p>14 BONUS - COMMISSION INFORMATION BUT IN</p> <p>15 THE CHECKVIEW?</p> <p>16 A. YES.</p> <p>17 Q. PERFORMANCE RATINGS?</p> <p>18 A. NO.</p> <p>19 Q. DISCIPLINARY ACTIONS?</p> <p>20 A. NO.</p> <p>21 Q. THE INFORMATION ABOUT THE</p> <p>22 EMPLOYEES SEX AND HIRE DATES, THE DATA</p> <p>23 THAT YOU SAID ZURICH PAYROLL SYSTEM DID</p> <p>24 CONTAIN PRIOR TO THE UPGRADE AND AFTER</p>	<p>183</p> <p>1 Q. DOES THE COMPUTER THAT</p> <p>2 HOUSED THE OLD ZURICH PAYROLL DATA, DOES</p> <p>3 IT STILL EXIST IN LA WEIGHT LOSS'S</p> <p>4 POSSESSION?</p> <p>5 A. NO.</p> <p>6 Q. DO YOU KNOW WHY IT DOESN'T?</p> <p>7 A. NO.</p> <p>8 Q. DO YOU KNOW WHO WOULD KNOW?</p> <p>9 A. NO.</p> <p>10 Q. DO YOU REMEMBER EVER</p> <p>11 ATTEMPTING TO ACCESS DATA IN THAT</p> <p>12 DATABASE AND REALIZING THAT IT NO LONGER</p> <p>13 EXISTED IN LA WEIGHT LOSS'S POSSESSION?</p> <p>14 A. IN WHAT YEAR ARE YOU --</p> <p>15 Q. ANY YEAR?</p> <p>16 A. IN 2001, YES.</p> <p>17 Q. YOU REMEMBER LOOKING FOR</p> <p>18 DATA THAT WOULD HAVE BEEN IN THE ZURICH</p> <p>19 PAYROLL SYSTEM PRIOR TO THE UPGRADE?</p> <p>20 A. IN THE ZURICH PAYROLL SYSTEM</p> <p>21 FROM '97, THE OLD SYSTEM.</p> <p>22 Q. WHAT HAPPENED WHEN YOU</p> <p>23 LOOKED FOR IT?</p> <p>24 A. THE PROGRAM DIDN'T EXIST.</p>
<p>182</p> <p>1 THE UPGRADE, WHAT WAS THE SOURCE OF THAT</p> <p>2 INFORMATION? BY SOURCE I MEAN, WHAT WAS</p> <p>3 THE ORIGINAL SOURCE OF THAT INFORMATION?</p> <p>4 A. EMPLOYEES FILL OUT NEW HIRE</p> <p>5 PAPERWORK THAT'S FAXED TO THE PAYROLL</p> <p>6 DEPARTMENT.</p> <p>7 Q. AND THEN WHAT DOES THE</p> <p>8 PAYROLL DEPARTMENT DO WITH THAT NEW</p> <p>9 PAPERWORK?</p> <p>10 A. INPUTS IT INTO THE SYSTEM.</p> <p>11 Q. IS IT A KEY ENTRY?</p> <p>12 A. YES.</p> <p>13 Q. THAT WAS THE SYSTEM IN 1999?</p> <p>14 A. YES.</p> <p>15 Q. PRIOR TO 1999?</p> <p>16 A. YES.</p> <p>17 Q. IS THAT THE CURRENT SYSTEM?</p> <p>18 A. YES.</p> <p>19 Q. DOES LA WEIGHT LOSS KEEP ALL</p> <p>20 THOSE NEW HIRE PAPERWORK?</p> <p>21 A. YES.</p> <p>22 Q. DO YOU HAVE THAT PAPERWORK</p> <p>23 GOING BACK TO 1997?</p> <p>24 A. YES.</p>	<p>184</p> <p>1 Q. DID THE COMPUTER ITSELF THAT</p> <p>2 THE DATA WAS HOUSED ON EXIST?</p> <p>3 A. I DON'T KNOW.</p> <p>4 Q. WHEN YOU LOOKED FOR THAT</p> <p>5 INFORMATION IN 2001 ABOUT 1997 DATA,</p> <p>6 WHERE DID YOU LOOK?</p> <p>7 A. ON THE COMPUTER -- ON THE</p> <p>8 COMPUTER THAT I THOUGHT IT WOULD HAVE</p> <p>9 BEEN ON.</p> <p>10 Q. WHY DID YOU THINK IT WOULD</p> <p>11 HAVE BEEN ON THAT COMPUTER?</p> <p>12 A. IT WAS A COMPUTER I WAS</p> <p>13 USING AT THE TIME. THE COMPUTER -- WE</p> <p>14 UPGRADED OUR COMPUTERS, WE GET NEW</p> <p>15 COMPUTERS A LOT SO FROM WHAT I REMEMBER I</p> <p>16 WOULD HAVE THOUGHT IT WOULD HAVE STILL</p> <p>17 BEEN ON THE SAME COMPUTER. I DON'T KNOW</p> <p>18 EXACTLY IF THAT'S -- IF IT EXACTLY WAS</p> <p>19 THE SAME COMPUTER THAT I WAS USING AT THE</p> <p>20 TIME, BUT IT WASN'T, IT DIDN'T EXIST NO</p> <p>21 MORE WHEN I WENT TO CHECK IN 2001.</p> <p>22 Q. WAS THERE ANY TIME PRIOR TO</p> <p>23 2001 WHEN YOU LOOKED FOR DATA IN THE</p> <p>24 FORMER SYSTEM AFTER THE UPGRADE? BETWEEN</p>

<p>189</p> <p>1 THE RECORD THROUGH LA WEIGHT 2 LOSS'S ATTORNEY ALIZA KARETNICK IN 3 WHICH IT WAS REPRESENTED TO EEOC 4 THAT THE ZURICH PAYROLL DATA FROM 5 1999 POST UPGRADE THROUGH 2000 6 EXISTS, IT EXISTS IN ITS NATIVE 7 FORMAT HOWEVER, IT IS MS. 8 KARETNICK'S UNDERSTANDING THAT 9 THAT DATA COULD NOT BE PRODUCED TO 10 EEOC IN ITS EXCEL FORMAT AND THUS 11 THE PARTIES HAD ARRANGED FOR LA 12 WEIGHT LOSS TO PRODUCE THE HARD 13 DRIVE OF THAT ZURICH PAYROLL 14 DATABASE TO EEOC FOR PURPOSES OF 15 DOING IT, WHATEVER THE EEOC COULD 16 AND THAT THE PARTIES HAVE 17 CONTRACTED WITH KROL ON TRACT TO 18 HELP IN THE EFFORT. AND THAT MS. 19 KARETNICK DOES NOT BELIEVE THE 20 WITNESS KNOWS MUCH MORE THAN WHAT 21 WAS JUST STATED ABOUT THAT 22 PROCESS. AND SO WE'RE NOT GOING 23 TO BEAT THAT HORSE; IS THAT 24 AGREED?</p>	<p>191</p> <p>1 PROCESS -- WHAT I'M NOT GOING TO 2 ASK YOU ABOUT IS WHETHER THE DATA 3 IS ACCESSIBLE AND THINGS OF THAT 4 SORT. I'LL ASK YOU ABOUT FIELDS 5 AND CODES AND THINGS OF THAT SORT, 6 OKAY? 7 THE WITNESS: YES. 8 BY MR. ANDERSON: 9 Q. SO THE 1997, 1998, 1999, 10 ZURICH DATA PRE-UPGRADE, IT EXISTED ON A 11 COMPUTER AND AT SOME POINT YOU REALIZED 12 THAT IT DIDN'T EXIST, YOU'RE NOT EXACTLY 13 SURE WHEN? 14 A. '97 AND '98. 15 Q. OKAY. 16 A. YES. 17 Q. OKAY. AND WHATEVER DATA 18 ALSO EXISTED IN 1999 PRIOR TO THE 19 UPGRADE, THAT OCCURRED THE VERY FIRST DAY 20 OF THE FIRST QUARTER, RIGHT? 21 A. YES. 22 Q. YOU DON'T KNOW WHAT HAPPENED 23 TO THE SYSTEM? 24 A. NO.</p>
<p>190</p> <p>1 MS. KARETNICK: AGREED. 2 BY MR. ANDERSON: 3 Q. SO, MS. MOFFITT, I'M NOT 4 GOING TO ASK YOU ABOUT THE 1999 AND 2000 5 ZURICH DATABASE ON THE REPRESENTATIONS 6 THAT HAVE BEEN MADE. I DO WANT TO 7 CONTINUE TO ASK YOU A LITTLE BIT MORE 8 ABOUT THE 1997, 1998 AND 1999 DATA THAT 9 EXISTED PRE-UPGRADE AND YOUR 10 UNDERSTANDING OF WHAT HAPPENED TO THAT 11 DATA. 12 MS. KARETNICK: MR. 13 ANDERSON, BEFORE THE WITNESS 14 ANSWERS THE QUESTION LET ME JUST 15 SAY YOU'RE PERFECTLY FREE TO AND I 16 ASSUME THAT YOU WILL BE ASKING THE 17 WITNESS ABOUT SOME OF THE SCREEN 18 SHOTS OF OTHER DOCUMENTS THAT WERE 19 PROVIDED REGARDING THE ZURICH 20 SYSTEM, IT'S NOT -- SO THAT WE 21 UNDERSTAND, IT'S NOT THAT ZURICH 22 SYSTEM IS OFF LIMITS FOR QUESTIONS 23 OF '99 TO 2000. 24 MR. ANDERSON: FOR THE</p>	<p>192</p> <p>1 Q. YOU ASKED MR LAPRE WHAT 2 HAPPENED TO THE SYSTEM, HE SAID HE 3 DOESN'T KNOW WHAT HAPPENED TO THE SYSTEM? 4 A. CORRECT. 5 Q. YOU DIDN'T ASK ANYONE ELSE 6 ABOUT WHAT HAPPENED TO THE SYSTEM? 7 A. NO. 8 Q. SO LA WEIGHT LOSS HAS NO 9 IDEA WHAT HAPPENED TO THE SYSTEM? 10 A. CORRECT. 11 Q. YOU DON'T KNOW WHY LA WEIGHT 12 LOSS DOESN'T KNOW THAT? 13 A. SYSTEM WASN'T NECESSARY 14 ANYMORE. 15 Q. THE SYSTEM WASN'T NECESSARY 16 FOR WHAT PURPOSE? 17 A. FOR PROCESSING PAYROLL. 18 Q. DID ANYBODY EVER SAY TO YOU 19 OR DID YOU HEAR ANYONE SAY THAT THE 20 SYSTEM WAS IMPORTANT FOR RECORD KEEPING 21 PURPOSES? 22 A. NO. 23 Q. DID ANYONE DISCUSS WITH YOU 24 IN '97 UP TO TODAY THE IMPORTANCE OF</p>

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<p>245</p> <p>1 MR. ANDERSON: THANKS.</p> <p>2 BY MR. ANDERSON:</p> <p>3 Q. SO IN 2001 ADP TOOK OVER AS</p> <p>4 PAYROLL ADMINISTRATOR?</p> <p>5 A. YES.</p> <p>6 Q. YOU'RE NOT SURE IF ANY</p> <p>7 DOCUMENTS EXISTS THAT PROVIDES THE BRIDGE</p> <p>8 FOR CODES BETWEEN ADP AND ZURICH?</p> <p>9 A. NO.</p> <p>10 Q. RIGHT. WHAT AGAIN DID YOU</p> <p>11 SAY TO, IF ANYTHING, TO ADP ABOUT</p> <p>12 TRANSFERRING THE DATA?</p> <p>13 A. SPECIFICALLY WHAT DO YOU</p> <p>14 MEAN?</p> <p>15 Q. ABOUT THE TRANSFER, DID YOU</p> <p>16 TELL THEM TO DO ANYTHING IN PARTICULAR?</p> <p>17 A. NO.</p> <p>18 Q. IS YOUR UNDERSTANDING THAT</p> <p>19 THERE WAS AN ELECTRONIC TRANSFER OF SOME</p> <p>20 SORT, ELECTRONIC FILE TRANSFERRING THE</p> <p>21 DATA FROM ZURICH TO ADP?</p> <p>22 A. YES.</p> <p>23 Q. LA WEIGHT LOSS DOES NOT</p> <p>24 CURRENTLY HAVE THAT FILE?</p>	<p>247</p> <p>1 A. YES.</p> <p>2 Q. -- AND LOOK TO DETERMINE</p> <p>3 WHAT A PERSON'S SEX WAS WITH YOU FOR</p> <p>4 EXAMPLE, HOW WOULD YOU GO ABOUT LOOKING</p> <p>5 FOR A PERSON'S SEX IN THE ADP SYSTEM IN</p> <p>6 2001?</p> <p>7 A. YOU WOULD HAVE TO OPEN UP</p> <p>8 THEIR FILE AND LOOK IN THEIR FOLDER.</p> <p>9 WHEN I SAY FOLDER I MEAN FOLDER IN THE</p> <p>10 SYSTEM.</p> <p>11 Q. WOULD THERE BE A DATA FIELD</p> <p>12 THAT WOULD CONTAIN SEX?</p> <p>13 A. YES.</p> <p>14 Q. WOULD THERE BE A DATA FIELD</p> <p>15 THAT CONTAINED SOCIAL SECURITY NUMBER?</p> <p>16 A. YES.</p> <p>17 Q. WOULD THERE BE A DATA FIELD</p> <p>18 THAT CONTAINED FILE NUMBER?</p> <p>19 A. YES.</p> <p>20 Q. WOULD THE FILE NUMBER FOR A</p> <p>21 PERSON WHO EXISTED IN THE ZURICH SYSTEM</p> <p>22 BE THE SAME AS THE FILE NUMBER THEY HAD</p> <p>23 IN THE ADP SYSTEM?</p> <p>24 A. YES.</p>
<p>246</p> <p>1 A. NO.</p> <p>2 MS. KARETNICK: OBJECTION TO</p> <p>3 FORM.</p> <p>4 BY MR. ANDERSON:</p> <p>5 Q. DOES LA WEIGHT LOSS HAVE</p> <p>6 THAT FILE?</p> <p>7 A. NOT THAT I'M AWARE OF, NO.</p> <p>8 Q. DO YOU KNOW WHETHER ADP HAS</p> <p>9 THAT FILE?</p> <p>10 A. NO, I DON'T.</p> <p>11 Q. WHEN ADP TOOK OVER IN 2001</p> <p>12 DID THE PAYROLL DATABASE CONTAIN</p> <p>13 INFORMATION ON A PERSON'S SEX?</p> <p>14 A. YES.</p> <p>15 Q. WAS IT DEPICTED IN -- HOW</p> <p>16 DID THAT SEX INFORMATION APPEAR IN THE</p> <p>17 SYSTEM?</p> <p>18 A. THROUGH AN IMPORT.</p> <p>19 Q. WHAT'S AN IMPORT?</p> <p>20 A. WELL, THROUGH AN ELECTRONIC</p> <p>21 FILE.</p> <p>22 Q. NO, I WASN'T -- I WASN'T</p> <p>23 CLEAR. IF ONE WERE TO GO INTO THE ADP</p> <p>24 SYSTEM IN 2001 --</p>	<p>248</p> <p>1 Q. WOULD DATE OF HIRE BE IN</p> <p>2 THERE?</p> <p>3 A. YES.</p> <p>4 Q. JOB TITLE?</p> <p>5 A. YES.</p> <p>6 Q. WOULD CHANGES IN JOB TITLE</p> <p>7 APPEAR?</p> <p>8 A. NO.</p> <p>9 Q. SALARY?</p> <p>10 A. NO.</p> <p>11 Q. PAY RATE?</p> <p>12 A. YES. HOURLY RATE.</p> <p>13 Q. HOURLY RATE. AMOUNTS PAID</p> <p>14 IN A GIVEN PAY PERIOD FOR EXAMPLE?</p> <p>15 A. YES, CHECKVIEW.</p> <p>16 Q. IN CHECKVIEW?</p> <p>17 A. YES.</p> <p>18 Q. BONUSES, WOULD THAT SHOW?</p> <p>19 A. YES.</p> <p>20 Q. COULD YOU VIEW A PERSON'S</p> <p>21 COMMISSION?</p> <p>22 A. YES.</p> <p>23 Q. COULD YOU VIEW BONUSES</p> <p>24 RECEIVED FOR VARIOUS TIME PERIODS OR IT</p>

<p>249</p> <p>1 WAS JUST FOR ONE TIME PERIOD, WAS IT PER 2 PAY PERIOD OR -- 3 A. PER PAY PERIOD. 4 Q. WOULD YOU LOOK AT IT TO 5 DETERMINE WHAT A PERSON EARNED IN THAT 6 YEAR -- 7 A. YES. 8 Q. -- IN BONUSES? 9 WOULD THERE BE A FIELD FOR 10 THAT OR WOULD YOU HAVE TO ADD UP ALL THE 11 DIFFERENT -- 12 A. THERE WOULD BE AN OPTION TO 13 SELECT CUMULATIVE. 14 Q. CUMULATIVE BONUS? 15 A. YES. 16 Q. WOULD THERE BE A SIMILAR 17 OPTION FOR COMMISSION? 18 A. YES. 19 Q. WOULD TERMINATION BE A FIELD 20 IN THE SYSTEM, WHETHER A PERSON HAD BEEN 21 TERMINATED? 22 A. YES. 23 Q. IF A PERSON HAD BEEN 24 TRANSFERRED WOULD THAT SHOW IN THE SYSTEM</p>	<p>25:</p> <p>1 A. YES. 2 Q. FOR 2001? 3 A. YES. 4 Q. FOR 2002 COULD SOMEONE 5 ACCESS THE DATA FOR INACTIVE EMPLOYEES? 6 A. YES. 7 Q. FOR 2002? 8 A. YES. 9 Q. WHY IS THE DATA FOR INACTIVE 10 EMPLOYEES FOR 2001 NOT ACCESSIBLE EXCEPT 11 FOR CHECKVIEW FORMAT? 12 A. ADP PURGED INACTIVE 13 EMPLOYEES. 14 Q. DO YOU REMEMBER WHEN THAT 15 WAS? 16 A. SOME -- SOMETIME IN 2002, 17 FIRST QUARTER OF 2002. 18 Q. WAS THAT NOT AN UPGRADE, IN 19 CONNECTION WITH AN UPGRADE TO THE SYSTEM 20 A. (PAUSE.) 21 Q. I'M TRYING -- THE REASON I'M 22 ASKING THE QUESTION IS I ASKED YOU ABOUT 23 AN UPGRADE IN 2002, YOU SAID THAT THERE 24 WASN'T?</p>
<p>250</p> <p>1 IN SOME WAY? 2 A. NO. 3 Q. HOW ABOUT PROMOTED? 4 A. NO. 5 Q. AND IN 2002 ADP UPGRADED ITS 6 SYSTEM, THE PAYROLL SYSTEM THAT LA WEIGHT 7 LOSS USED; IS THAT RIGHT? 8 A. IN -- 9 Q. DO YOU REMEMBER WHEN ADP, IF 10 AT ALL, UPGRADED ITS SYSTEM, THE SYSTEM? 11 A. THE LAST UPGRADE WAS IN 12 MARCH OF 2005. 13 Q. WERE THERE ANY UPGRADES 14 PRIOR TO 2005? 15 A. NOT THAT I CAN REMEMBER. 16 Q. THE DATA THAT WAS HOUSED IN 17 THE ADP, LA WEIGHT LOSS'S ADP SYSTEM IN 18 2001, REFERRING TO THAT, IS THAT 19 CURRENTLY ACCESSIBLE? 20 A. CHECKVIEW IS ACCESSIBLE FOR 21 TERMINATED EMPLOYEES. IF THEY'RE STILL 22 ACTIVE, YES, THEY'RE STILL IN THE SYSTEM. 23 Q. PERSONS WHO ARE INACTIVE CAN 24 BE VIEWED ONLY THROUGH CHECKVIEW?</p>	<p>252</p> <p>1 A. WELL THERE WASN'T A PAYROLL 2 UPGRADE THEY WERE OUT ADDING A FEATURE TO 3 THE PAYROLL SYSTEM WHICH WAS NEVER USED. 4 Q. THEY WERE ADDING A FEATURE 5 THAT WAS NEVER USED? 6 A. THEY WERE ADDING AN HR 7 SYSTEM THAT WAS NEVER USED AFTER IT WAS 8 PUT ON THE SYSTEM, SO IT WASN'T 9 NECESSARILY AN UPGRADE TO MY SIDE OF THE 10 PAYROLL. BUT THEY WERE DOING, I GUESS 11 YOU COULD SAY THEY WERE DOING AN UPGRADE 12 JUST NOT NECESSARILY THROUGH PAYROLL. 13 Q. I GOT YOU. AND IT WAS 14 THROUGH THAT UPGRADE BROADLY DEFINED THA 15 THE INACTIVE EMPLOYEES DATA BECAME 16 INACCESSIBLE EXCEPT BY CHECKVIEW FORMAT? 17 A. YES. 18 Q. I THINK YOU STATED EARLIER 19 THAT YOU ASKED ADP TO TRY TO RETRIEVE 20 THAT DATA? 21 A. YES. 22 Q. THEY TOLD YOU BECAUSE -- 23 BECAUSE OF USING THE SYSTEM SINCE THEN 24 YOU WOULDN'T BE ABLE TO DO IT, RIGHT?</p>

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<p>253</p> <p>1 MS. KARETNICK: OBJECTION TO 2 FORM. 3 THE WITNESS: YES. 4 BY MR. ANDERSON: 5 Q. AND SUBSEQUENT TO THAT PURGE 6 SLASH UPGRADE, YOU GAVE ORAL INSTRUCTIONS 7 TO ADP NOT TO DO ANY PURGES OR TO MAKE 8 ANY DATA INACCESSIBLE AGAIN, RIGHT? 9 A. CORRECT. 10 Q. AND THAT WAS ORAL? 11 A. YES. 12 Q. ARE YOU FAMILIAR WITH A SET 13 OF DATA THAT LA WEIGHT LOSS PRODUCED TO 14 EEOC THAT WAS TERMED AS PLAINTIFF'S 15 EXHIBIT 8 AS LACD0155.A? 16 A. YES. 17 Q. DOES THAT DATA SET COVER 18 2001? DOES IT HAVE INACTIVE EMPLOYEES 19 FOR 2001 THAT YOU TESTIFIED IS NOT 20 ACCESSIBLE EXCEPT BY CHECKVIEW FORMAT? 21 A. NO. 22 Q. WHAT PERIOD OF TIME DOES 23 LACD0155.A COVER? 24 A. 2002 THROUGH THE DATE IT WAS</p>	<p>255</p> <p>1 MARKED FOR IDENTIFICATION.) 2 BY MR. ANDERSON: 3 Q. MS. MOFFITT, I'VE JUST 4 HANDED YOU WHAT'S BEEN MARKED AS 5 PLAINTIFF'S EXHIBIT-9. THIS IS A SERIES 6 OF PAGES TAKEN FROM A DOCUMENT PRODUCTION 7 THAT ADVANTAGE PAYROLL SOLUTIONS PROVIDED 8 TO EEOC IN RESPONSE TO A SUBPOENA FOR LA 9 WEIGHT LOSS PAYROLL RECORDS. AND AS YOU 10 KNOW ADVANTAGE PAYROLL IS THE SUCCESSOR 11 TO ZURICH. WHAT I WANTED TO DO IS GO 12 OVER THIS DOCUMENT AND ASK YOU QUESTIONS 13 ABOUT IT. 14 DO YOU RECOGNIZE NOT 15 NECESSARILY THIS PARTICULAR SERIES OF 16 PAGES BUT DO YOU RECOGNIZE THIS TYPE OF 17 DOCUMENT? 18 A. YES. 19 Q. HOW DO YOU RECOGNIZE IT? 20 A. HOW DO I RECOGNIZE IT, 21 MEANING HAVE I EVER SEEN ONE OF THESE 22 BEFORE? 23 Q. YES. HAVE YOU EVER SEEN 24 SOMETHING LIKE THIS BEFORE?</p>
<p>254</p> <p>1 RUN. 2 Q. DATA AS IT PERTAINS TO THE 3 TIME PRIOR TO 2002, IS THAT NOT 4 ACCESSIBLE OR IS IT ACCESSIBLE? 5 A. NO. 6 Q. IT IS NOT? 7 A. NO. 8 Q. EXCEPT BY CHECKVIEW FORMAT? 9 A. CHECKVIEW FORMAT. 10 Q. AT LEAST FOR INACTIVE 11 EMPLOYEES? 12 A. CORRECT. 13 Q. FOR ACTIVE EMPLOYEES YOU'RE 14 SAYING IT IS ACCESSIBLE? 15 A. CORRECT. 16 MR. ANDERSON: WE CAN TAKE A 17 SHORT BREAK NOW IF YOU WANT. 18 (A DISCUSSION OFF THE RECORD 19 OCCURRED AND A LUNCH BREAK WAS 20 TAKEN FROM 12:30 P.M. UNTIL 1:10 21 P.M.) 22 MR. ANDERSON: I'D LIKE TO 23 MARK THIS AS EXHIBIT-9. 24 (PLAINTIFF'S EXHIBIT-9</p>	<p>256</p> <p>1 A. YES. 2 Q. WHEN? 3 A. YES, IF I NEEDED A CHECK 4 HISTORY IN 2000. 5 Q. IN 2000? 6 A. OR ACTUALLY '97 THROUGH 7 2000. 8 Q. WHEN YOU NEEDED A CHECK 9 HISTORY MEANING WHAT? 10 A. MEANING A REPORT SHOWING A 11 CHECK, CHECKS FOR ANY EMPLOYEE FROM A 12 CERTAIN TIME FRAME. 13 Q. AND WHERE WAS THIS -- WHERE 14 WAS THIS HOUSED? 15 A. ZURICH WOULD PROVIDE US WITH 16 CHECK HISTORIES. 17 Q. HOW WOULD YOU ASK ZURICH FOR 18 THAT? 19 A. CALL THEM AND ASK THEM FOR 20 IT. 21 Q. SO YOU'D CALLED SAY HEY 22 ZURICH I THINK I NEED A CHECK HISTORY FOR 23 EMPLOYEE SO-AND-SO? 24 A. YES.</p>

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<p>269</p> <p>1 A. YES.</p> <p>2 Q. SO FOR MS. JENNIFER ABBOTT</p> <p>3 HER FILE NUMBER WOULD BE 065284?</p> <p>4 A. YES.</p> <p>5 Q. AND THE DEPARTMENT NUMBER</p> <p>6 WOULD BE 100001?</p> <p>7 A. YES.</p> <p>8 Q. BELOW FILE NUMBER IS A</p> <p>9 NUMBER THAT BEGINS 075, IS THAT SOCIAL</p> <p>10 SECURITY NUMBER?</p> <p>11 A. YES.</p> <p>12 Q. AND TO THE RIGHT OF THAT 01</p> <p>13 IS THAT A STATE TAX CODE?</p> <p>14 A. YES.</p> <p>15 Q. TO THE RIGHT OF THAT 19, DO</p> <p>16 YOU KNOW WHAT THAT IS?</p> <p>17 A. SUI TAX CODE.</p> <p>18 Q. TO THE RIGHT OF THAT SHADED</p> <p>19 AREA THERE'S A BOX LABELED GENDER AS IT</p> <p>20 PERTAINS TO JENNIFER ABBOTT THERE'S AN F</p> <p>21 THERE, DOES THAT MEAN THE GENDER IS</p> <p>22 FEMALE?</p> <p>23 A. YES.</p> <p>24 Q. IF THERE WERE AN M THERE --</p>	<p>271</p> <p>1 YOU KNOW WHAT THAT IS?</p> <p>2 A. IT'S SHOWING YOU THAT</p> <p>3 CERTAIN INFORMATION IS THE QUARTER TO</p> <p>4 DATE AND CERTAIN INFORMATION IS THE YEAR</p> <p>5 TO DATE.</p> <p>6 Q. DO YOU KNOW WHAT QUAL PEN</p> <p>7 STANDS FOR UNDER DEPARTMENT NUMBER?</p> <p>8 A. NO, I DON'T.</p> <p>9 Q. IS THAT SOMETHING THAT YOU</p> <p>10 WOULD USE?</p> <p>11 A. NO.</p> <p>12 Q. TOP RIGHT HAND BOX THERE'S A</p> <p>13 DATE THAT YOU SAID YOU DIDN'T KNOW WHAT</p> <p>14 IT REPRESENTS, UNDER THAT DATE THERE ARE</p> <p>15 NUMBERS; DO YOU KNOW WHAT THOSE NUMBERS</p> <p>16 MEAN?</p> <p>17 A. NO, I DON'T.</p> <p>18 Q. IN THE MIDDLE OF THE PAGE</p> <p>19 THERE'S A WHAT APPEARS TO BE A WATER MARK</p> <p>20 THAT SAYS PREVIEW, IS THAT A WATER MARK</p> <p>21 TO YOUR KNOWLEDGE?</p> <p>22 A. (PAUSE.)</p> <p>23 Q. YOU DON'T KNOW?</p> <p>24 A. I DON'T KNOW IF IT'S A WATER</p>
<p>270</p> <p>1 HOW COULD AN M APPEAR THERE?</p> <p>2 A. IF THE EMPLOYEE WAS A MALE.</p> <p>3 Q. HOW COULD AN M APPEAR THERE</p> <p>4 IF THE EMPLOYEE WERE A FEMALE, WOULD THAT</p> <p>5 BE A MISTAKE?</p> <p>6 A. YES.</p> <p>7 Q. WHERE WOULD -- WHAT WAS THE</p> <p>8 ORIGINAL SOURCE OF THE DATA THAT</p> <p>9 PLAINTIFF'S EXHIBIT 5 DEPICTS?</p> <p>10 A. THE ORIGINAL SOURCE MEANING</p> <p>11 THE PAYROLL SYSTEM?</p> <p>12 Q. THE DATA THAT IS HERE?</p> <p>13 A. COMES FROM THE PAYROLL</p> <p>14 SYSTEM.</p> <p>15 Q. HOW DID THE PAYROLL SYSTEM</p> <p>16 GET IT?</p> <p>17 A. FROM THE EMPLOYEE FILLING</p> <p>18 OUT THEIR NEW HIRE PAPERWORK.</p> <p>19 Q. YOU DESCRIBED THAT EARLIER,</p> <p>20 RIGHT?</p> <p>21 A. YES.</p> <p>22 Q. THERE'S A THIN COLUMN TO THE</p> <p>23 RIGHT OF DEPARTMENT NUMBER QUAL PEN,</p> <p>24 WITHHOLDING BLOCKS ET CETERA, QTD/YTD, DO</p>	<p>272</p> <p>1 MARK.</p> <p>2 Q. WHEN YOU REVIEWED AN ADP</p> <p>3 PAYROLL REPORT WOULD IT SAY PREVIEW ON IT</p> <p>4 NORMALLY?</p> <p>5 MS. KARETNICK: OBJECTION TO</p> <p>6 CHARACTERIZATION OF THE DOCUMENT</p> <p>7 AS A PAYROLL REPORT. YOU CAN</p> <p>8 ANSWER THE QUESTION.</p> <p>9 THE WITNESS: NO. THIS WAS</p> <p>10 A PREVIEW FOR THE YEAR END REPORT</p> <p>11 WHICH IS WHY IT SAYS PREVIEW.</p> <p>12 BY MR. ANDERSON:</p> <p>13 Q. WHAT DOES PREVIEW MEAN AS IT</p> <p>14 RELATES TO THE YEAR END REPORT?</p> <p>15 A. IT'S THE PREVIEW BEFORE THEY</p> <p>16 ACTUALLY SEND OUT W-2'S, THE COMPANY</p> <p>17 PREVIEWS THIS AND MAKES SURE EVERYTHING</p> <p>18 LOOKS CORRECT AND THEN SENDS OUT THE</p> <p>19 W-2'S. IT ONLY SAYS PREVIEW DURING THE</p> <p>20 END OF THE YEAR.</p> <p>21 Q. IS THIS SOMETHING THAT ADP</p> <p>22 WOULD PROVIDE TO LA WEIGHT LOSS?</p> <p>23 A. YES.</p> <p>24 Q. WHAT FORMAT WOULD LA WEIGHT</p>

<p style="text-align: right;">273</p> <p>1 LOSS RECEIVE IT?</p> <p>2 A. IN A PDF.</p> <p>3 Q. PDF FILE?</p> <p>4 A. YES.</p> <p>5 Q. HAS LA WEIGHT LOSS EVER</p> <p>6 RECEIVED THESE IN SOMETHING OTHER THAN A</p> <p>7 PDF FORMAT?</p> <p>8 A. NO.</p> <p>9 Q. PLAINTIFF'S EXHIBIT 5</p> <p>10 RELATES TO 2002?</p> <p>11 A. YES.</p> <p>12 Q. THE DATA HOUSED IN AND</p> <p>13 DEPICTED IN PLAINTIFF'S EXHIBIT 5, DID IT</p> <p>14 EXIST IN A DIFFERENT FORMAT THAT WAS NOT</p> <p>15 PDF? THE PAYROLL DATA, WAS THERE A WAY</p> <p>16 TO VIEW AN EMPLOYEE'S NAME AND THEIR</p> <p>17 SOCIAL SECURITY NUMBER, THEIR FILE</p> <p>18 NUMBER, THEIR PAY?</p> <p>19 A. YOU CAN VIEW IT IN THE</p> <p>20 PAYROLL SYSTEM.</p> <p>21 Q. AND THAT WAS NOT -- AND WHEN</p> <p>22 YOU REVIEW IT IN THE PAYROLL SYSTEM DID</p> <p>23 YOU VIEW IT IN A PDF FORM?</p> <p>24 A. NO.</p>	<p style="text-align: right;">275</p> <p>1 Q. HOW OFTEN?</p> <p>2 A. QUARTERLY.</p> <p>3 Q. LOOKING AT PAGE 7,</p> <p>4 PLAINTIFF'S EXHIBIT 5, THERE'S A COLUMN</p> <p>5 THAT STARTS GROSS EARNINGS, THEN UNDER</p> <p>6 THAT THERE'S FEDERAL INCOME TAX WAGES,</p> <p>7 FEDERAL INCOME TAX WITHHELD, EARNED</p> <p>8 INCOME, CREDIT AND IN THAT COLUMN THE</p> <p>9 FIRST NUMBER THAT APPEARS IS 7751 AND</p> <p>10 THEN THERE'S A LINE 95, WHAT DOES THAT</p> <p>11 NUMBER MEAN?</p> <p>12 A. HER YEAR TO DATE GROSS</p> <p>13 EARNINGS.</p> <p>14 Q. WHEN YOU SAY HER WHAT DO YOU</p> <p>15 MEAN?</p> <p>16 A. JENNIFER ABBOTT.</p> <p>17 Q. FOR MICHELLE ABDO BELOW</p> <p>18 JENNIFER ABBOTT THERE APPEAR TO BE</p> <p>19 QUARTERLY EARNINGS BUT FOR JENNIFER</p> <p>20 ABBOTT THERE ARE NO QUARTERLY EARNINGS</p> <p>21 LISTED, DO YOU KNOW WHY THAT WOULD BE?</p> <p>22 A. NO, I DON'T.</p> <p>23 Q. IN THIS COLUMN IN FRONT OF</p> <p>24 THE COLUMN WHERE EMPLOYEE NAMES ARE</p>
<p style="text-align: right;">274</p> <p>1 Q. IT WAS SOME OTHER FORM?</p> <p>2 A. YOU BASICALLY JUST OPEN THE</p> <p>3 PAYROLL SYSTEM AND YOU CAN VIEW THE</p> <p>4 INFORMATION ON THE SCREEN, NOT A FILE.</p> <p>5 Q. THE INFORMATION IN</p> <p>6 PLAINTIFF'S EXHIBIT 5, RELATING TO 2002,</p> <p>7 IS THIS INFORMATION ALSO CONTAINED IN</p> <p>8 LACD 0155.A?</p> <p>9 MS. KARETNICK: OBJECTION TO</p> <p>10 FORM.</p> <p>11 THE WITNESS: PAY</p> <p>12 INFORMATION IS NOT FIELDS, NAME,</p> <p>13 SOCIAL SECURITY NUMBER,</p> <p>14 DEPARTMENT, GENDER, STATUS, THAT</p> <p>15 IS EXCLUDED.</p> <p>16 BY MR. ANDERSON:</p> <p>17 Q. EVERYTHING BUT THE PAY</p> <p>18 YOU'RE SAYING?</p> <p>19 A. CORRECT.</p> <p>20 Q. HOW WOULD LA WEIGHT LOSS --</p> <p>21 HOW DID LA WEIGHT LOSS RECEIVE FROM ADP</p> <p>22 THE WAGE AND TAX REGISTER?</p> <p>23 A. IT'S SENT THROUGH THE MAIL</p> <p>24 ON A DISK TO ME.</p>	<p style="text-align: right;">276</p> <p>1 SHOWN, UNDERNEATH DORA ABOD IT SAYS</p> <p>2 TRANSFER TO FILE NUMBER 066348, DO YOU</p> <p>3 KNOW WHAT THAT MEANS?</p> <p>4 A. THAT MEANS SOMETHING CHANGED</p> <p>5 IN HER FILE THAT NEEDED TO BE TRANSFERRED</p> <p>6 TO A NEW FILE, TAXES.</p> <p>7 Q. WHAT DOES FILE MEAN?</p> <p>8 A. HER FILE NUMBER.</p> <p>9 Q. SO TRANSFER TO FILE NUMBER</p> <p>10 066348 MEANS TRANSFER WHAT?</p> <p>11 A. TRANSFER HER -- ALL OF HER</p> <p>12 INFORMATION NOT INCLUDING PAY</p> <p>13 INFORMATION.</p> <p>14 Q. WHY WOULD THAT TRANSFER TAKE</p> <p>15 PLACE?</p> <p>16 A. SHE CHANGED HER LOCAL TAX,</p> <p>17 THE TAX CODE CHANGED SO HER -- YOU NEED A</p> <p>18 NEW FILE NUMBER IF YOU'RE, ANYTHING WITH</p> <p>19 YOUR TAXES CHANGES. SO THAT SHE HAS TO</p> <p>20 FILE UNDER ONE FILE NUMBER FOR THE FIRST</p> <p>21 LOCAL TAX, THE OTHER FILE NUMBER FOR THE</p> <p>22 SECOND LOCAL TAX.</p> <p>23 Q. SO AN EMPLOYEE IN THE ADP</p> <p>24 SYSTEM WOULD HAVE MORE THAN ONE FILE</p>

<p>285</p> <p>1 A. FOR 2002?</p> <p>2 Q. YES.</p> <p>3 A. YES.</p> <p>4 Q. COULD YOU PROVIDE IT IN</p> <p>5 EXCEL FORMAT?</p> <p>6 A. YES.</p> <p>7 Q. THIS HAS BEEN PREVIOUSLY</p> <p>8 MARKED AS PLAINTIFF'S EXHIBIT 4. DO YOU</p> <p>9 RECOGNIZE PLAINTIFF'S EXHIBIT 4?</p> <p>10 A. YES.</p> <p>11 Q. WHAT IS IT?</p> <p>12 A. THE PAYROLL SYSTEM WE</p> <p>13 CURRENTLY USE.</p> <p>14 Q. THE SECOND HALF OF PAGE ONE</p> <p>15 OF PLAINTIFF'S EXHIBIT 4 LOOKS LIKE IT</p> <p>16 DEPICTS A SCREEN SHOT; DO YOU RECOGNIZE</p> <p>17 THAT?</p> <p>18 A. YES.</p> <p>19 Q. WHAT DOES THIS SCREEN SHOT</p> <p>20 DEPICT?</p> <p>21 A. HOW YOU CAN SEARCH FOR AN</p> <p>22 EMPLOYEE.</p> <p>23 Q. GO TO PAGE 2. YOU SAID THAT</p> <p>24 THIS IS WHAT YOU GUYS CURRENTLY USE, IS</p>	<p>287</p> <p>1 ANYTHING CHANGE WITH RESPECT TO SCREEN</p> <p>2 SHOTS IN THE ADP SYSTEM IN THE LAST</p> <p>3 5 YEARS?</p> <p>4 A. NO, NOT THAT I'M -- NOT THAT</p> <p>5 I REMEMBER.</p> <p>6 Q. IF YOU WERE TO GET TO -- TO</p> <p>7 TAKE DATA FROM THE PAYROLL SYSTEM AND PUT</p> <p>8 IT INTO THE EXCEL SPREADSHEET, IS THAT</p> <p>9 SOMETHING THAT YOU PERSONALLY CAN DO?</p> <p>10 A. YES.</p> <p>11 Q. IF WE CAN GO TO PAGE 2.</p> <p>12 THIS SCREEN SHOT IS ENTITLED ADP PC</p> <p>13 FORWARD SLASH PAYROLL FOR WINDOWS WITH HA</p> <p>14 PROFILE. THEN IN BRACKETS IT SAYS</p> <p>15 EMPLOYEE DASH KQ465284 JENNIFER H.</p> <p>16 ABBOTT; DO YOU KNOW WHAT THE NUMBER 65284</p> <p>17 MEANS?</p> <p>18 A. HER -- THAT'S HER FILE</p> <p>19 NUMBER.</p> <p>20 Q. IT APPEARS THAT THE PERSONAL</p> <p>21 TAB IS SHOWING HERE; IS THAT RIGHT?</p> <p>22 A. YES.</p> <p>23 Q. DO YOU KNOW WHAT'S BEHIND</p> <p>24 THE CUMULATIVE TAB?</p>
<p>286</p> <p>1 PLAINTIFF'S EXHIBIT 4 DEPICTING THE</p> <p>2 SYSTEM AS YOU CURRENTLY USE IT?</p> <p>3 A. YES.</p> <p>4 Q. DOES THAT MEAN IT'S NOT</p> <p>5 NECESSARILY DEPICTING WHAT WAS IN USE</p> <p>6 FROM 2001 OR WHEN -- IS THERE A YEAR AT</p> <p>7 WHICH POINT GOING BACKWARDS THIS WOULD</p> <p>8 NOT NECESSARILY BE ACCURATE?</p> <p>9 A. YOU MEAN THAT WE DIDN'T USE</p> <p>10 THIS SYSTEM?</p> <p>11 Q. NO. NO. MY UNDERSTANDING</p> <p>12 IS THAT YOU USED THE SYSTEM BASED ON</p> <p>13 RECENT TIMES FROM 2001 TO THE PRESENT; IS</p> <p>14 THAT RIGHT?</p> <p>15 A. YES.</p> <p>16 Q. AND THESE SCREENS, THIS SET</p> <p>17 OF SCREEN SHOTS YOU SAID TO YOUR</p> <p>18 KNOWLEDGE DEPICTS THE ADP SYSTEM AS YOU</p> <p>19 CURRENTLY USE IT?</p> <p>20 A. YES.</p> <p>21 Q. I'M ASKING IF THERE'S A</p> <p>22 POSSIBILITY THAT IT DOES NOT DEPICT</p> <p>23 SCREEN SHOTS AS IT WAS USED IN 2001 OR</p> <p>24 2002, 2003, 2004? DID IT CHANGE -- DID</p>	<p>288</p> <p>1 A. THE CUMULATIVE PAY</p> <p>2 INFORMATION FOR THE CURRENT YEAR.</p> <p>3 Q. DO YOU KNOW WHAT IT WOULD</p> <p>4 LOOK LIKE, IS IT YEAR TO DATE?</p> <p>5 A. YES.</p> <p>6 Q. WOULD IT ALSO SHOW</p> <p>7 QUARTERLY?</p> <p>8 A. NO.</p> <p>9 Q. YOU STATED EARLIER THAT</p> <p>10 QUARTERLY INFORMATION WOULD BE HOUSED IN</p> <p>11 THE SYSTEM SOMEWHERE, IT WOULDN'T SHOW IN</p> <p>12 THE CUMULATIVE?</p> <p>13 A. NO, YOU CAN PULL QUARTERLY</p> <p>14 INFORMATION THROUGH THE CHECKVIEW.</p> <p>15 Q. OKAY. CAN THE INFORMATION</p> <p>16 IN CHECKVIEW CURRENTLY BE PRODUCED IN</p> <p>17 ELECTRONIC FORMAT EXCEL?</p> <p>18 A. NO, IT'S PRODUCED IN THE</p> <p>19 PDF.</p> <p>20 Q. ONLY THE PDF?</p> <p>21 A. YES.</p> <p>22 Q. IS THIS AN IMAGE, PDF IMAGE</p> <p>23 OF AN ACTUAL CHECK?</p> <p>24 A. YES.</p>

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<p style="text-align: right;">333</p> <p>1 PERSON KALAY ABRAHAM, HER RACE IS LISTED</p> <p>2 AS TWO AND IN PREVIOUS ADP SCREEN SHOTS</p> <p>3 THERE WERE, YOU SAID THERE WAS W AND</p> <p>4 THERE WAS H AND THERE WAS A, DOES TWO</p> <p>5 CORRESPOND TO A W AND H WOULD BE AN A OR</p> <p>6 A B?</p> <p>7 A. YES.</p> <p>8 Q. WHAT IS TWO?</p> <p>9 A. I'M NOT SURE WHAT TWO WOULD</p> <p>10 STAND FOR.</p> <p>11 Q. WAS THERE A DOCUMENT OF SOME</p> <p>12 SORT THAT EXPLAINED THAT?</p> <p>13 A. I BELIEVE THE VALIDATION</p> <p>14 TABLE WOULD SHOW THE NUMBER.</p> <p>15 Q. I DON'T SEE IT HERE.</p> <p>16 DO YOU KNOW THE WAY TO</p> <p>17 DETERMINE WHAT A PERSON LISTED AS RACE</p> <p>18 TWO IS LISTED AS IN LACD 0155.A, WOULD</p> <p>19 YOU JUST LOOK AT THE PERSON, LOOK THAT</p> <p>20 PERSON UP AND FIGURE IT OUT THAT WAY? IS</p> <p>21 THERE OTHER THAN THE VALIDATION TABLE</p> <p>22 WHICH I DON'T SEE LISTING THIS</p> <p>23 INFORMATION?</p> <p>24 A. WE WOULD HAVE TO GO INTO THE</p>	<p style="text-align: right;">335</p> <p>1 MS. KARETNICK: -- MR.</p> <p>2 ANDERSON'S FIRST HERE WAS I</p> <p>3 BELIEVE WHAT WAS MARKED AS LA</p> <p>4 EXHIBIT 4 -- OR I'M SORRY,</p> <p>5 PLAINTIFF'S EXHIBIT 4A.</p> <p>6 MR. ANDERSON: YES 4A.</p> <p>7 MS. KARETNICK: THE SECOND</p> <p>8 HERE BEING THE MASTER CONTROL</p> <p>9 REPORT.</p> <p>10 BY MR. ANDERSON:</p> <p>11 Q. IF YOU COULD GO TO PAGE 7,</p> <p>12 PLAINTIFF'S EXHIBIT 6. CAROL ACEVEDO,</p> <p>13 THE FOURTH PERSON DOWN IN THE SECOND</p> <p>14 COLUMN FOR PAY, IT SAYS HER CURRENT GROSS</p> <p>15 IS 0.00 AND HER SALARY IS 0.00. DO YOU</p> <p>16 KNOW WHY THOSE TWO FIELDS WOULD LIST</p> <p>17 ZERO?</p> <p>18 A. I DON'T KNOW WHY HER CURRENT</p> <p>19 GROSS SAYS ZERO BUT SHE'S A SALARIED</p> <p>20 EMPLOYEE AND WE DO NOT ENTER SALARIES</p> <p>21 INTO THE SYSTEM, THAT'S WHY THAT WOULD</p> <p>22 SHOW ZERO.</p> <p>23 MR. ANDERSON: IF I COULD</p> <p>24 HAVE ABOUT A MINUTE.</p>
<p style="text-align: right;">334</p> <p>1 FILE, YES.</p> <p>2 Q. DOES THE VALIDATION TABLE</p> <p>3 PERTAIN TO THE ACTUAL SCREEN SHOTS OR</p> <p>4 DOES IT PERTAIN TO SOMETHING ELSE,</p> <p>5 BECAUSE IT APPEARS AS THOUGH THERE ARE</p> <p>6 CODES IN THE MASTER CONTROL REPORT AND</p> <p>7 THE WAGE AND TAX REGISTER THAT ARE</p> <p>8 DIFFERENT THAN THE CODES IN HERE EVEN</p> <p>9 THOUGH THEY HAVE THE SAME INFORMATION.</p> <p>10 DO YOU KNOW, DO YOU KNOW</p> <p>11 WHAT THE VALIDATION CODES OR VALIDATION</p> <p>12 REPORT PERTAINS TO?</p> <p>13 A. THE VALIDATION TABLE SHOULD</p> <p>14 GIVE ANYTHING THAT'S ABBREVIATED IN --</p> <p>15 Q. IN HERE?</p> <p>16 A. -- IN ADP.</p> <p>17 Q. NOT NECESSARILY IN THE</p> <p>18 MASTER CONTROL OR THE WAGE AND TAX</p> <p>19 REGISTER?</p> <p>20 A. RIGHT.</p> <p>21 MS. KARETNICK: LET THE</p> <p>22 RECORD REFLECT THAT --</p> <p>23 MR. ANDERSON: THE FIRST</p> <p>24 HERE.</p>	<p style="text-align: right;">336</p> <p>1 (A DISCUSSION OFF THE RECORD</p> <p>2 OCCURRED AND A BRIEF PAUSE WAS</p> <p>3 TAKEN.)</p> <p>4 (PLAINTIFF'S EXHIBIT-10</p> <p>5 MARKED FOR IDENTIFICATION.)</p> <p>6 BY MR. ANDERSON:</p> <p>7 Q. MS. MOFFITT, I'M SHOWING YOU</p> <p>8 PLAINTIFF'S EXHIBIT 10 WHICH IS A RUN OF</p> <p>9 DATA THAT EEOC DID USING LACD 01155.A,</p> <p>10 THE PURPOSE OF WHICH IS TO FACILITATE</p> <p>11 THIS EXAMINATION. I'D LIKE TO ASK YOU</p> <p>12 QUESTIONS AS IT RELATES TO VARIOUS FIELDS</p> <p>13 AND CODES, DATA INPUTS, AND 0155.A; IS</p> <p>14 THAT OKAY?</p> <p>15 A. YES.</p> <p>16 Q. THE 0155.A IS THAT COMPLETE</p> <p>17 FOR 2001 THROUGH -- 2001 TO THE PRESENT?</p> <p>18 A. IF THE EMPLOYEE IS STILL</p> <p>19 ACTIVE FROM 2001 THEY'LL STILL BE IN THE</p> <p>20 FILE. IF THEY WERE TERMINATED IN 2001,</p> <p>21 THEY WILL NOT SHOW UP IT WOULD JUST HAVE</p> <p>22 2002.</p> <p>23 Q. SO PERSONS WHO WERE ACTIVE</p> <p>24 IN 2001 SHOW UP IN LACD 0155.A?</p>

CHRISTINE MOFFITT

<p>337</p> <p>1 A. IF THEY WERE ACTIVE IN 2001</p> <p>2 AND WERE ACTIVE AT THE TIME THE REPORT</p> <p>3 WAS RUN.</p> <p>4 Q. IF A PERSON WERE NOT ACTIVE</p> <p>5 WHEN THE REPORT WAS RUN, WOULD THEY SHOW</p> <p>6 UP ON THE LACD 0155.A?</p> <p>7 A. IF THEY WERE TERMINATED IN</p> <p>8 2001, NO.</p> <p>9 Q. WHAT IF THEY TERMINATED IN</p> <p>10 2004?</p> <p>11 A. YES.</p> <p>12 Q. HOW ABOUT 2003?</p> <p>13 A. YES.</p> <p>14 Q. 2002?</p> <p>15 A. YES.</p> <p>16 Q. BUT NOT 2001?</p> <p>17 A. NO.</p> <p>18 Q. SO ANY EMPLOYEES TERMINATED</p> <p>19 IN 2001 AND WHO WAS NOT ACTIVE AS OF THE</p> <p>20 DATE THAT LACD 0155.A WAS RUN, ISN'T IN</p> <p>21 THAT FILE?</p> <p>22 A. CORRECT.</p> <p>23 Q. OKAY. SO FOR WHAT YEARS IS</p> <p>24 LACD 0155.A INCOMPLETE?</p>	<p>339</p> <p>1 A. YES.</p> <p>2 Q. SHE'S PUT AN X MARK IN THE</p> <p>3 BOX LABELED FEMALE AS GENDER, RIGHT?</p> <p>4 A. YES, YES.</p> <p>5 Q. AND LACD 0155.A COLUMN Z FOR</p> <p>6 GENDER SHE'S LISTED AS A MALE; IS THE</p> <p>7 REASON FOR THAT A KEY PUNCH ERROR?</p> <p>8 A. YES.</p> <p>9 Q. SOMEBODY JUST MADE A</p> <p>10 MISTAKE?</p> <p>11 A. YES.</p> <p>12 Q. IF SOMEONE WERE A MALE BUT</p> <p>13 WAS CODED AS FEMALE THEY WOULD HAVE --</p> <p>14 THEIR MISTAKE WOULD ALSO BE THE REASON?</p> <p>15 A. YES.</p> <p>16 Q. IN LACD 0155.A SOME PEOPLE</p> <p>17 HAVE MULTIPLE RECORDS, WHY WOULD THAT BE?</p> <p>18 A. MULTIPLE FILE NUMBERS.</p> <p>19 Q. THEY'RE LISTED MULTIPLE</p> <p>20 TIMES AND THE VARIOUS PEOPLE ARE ON THE</p> <p>21 SPREADSHEET MORE THAN ONCE; DO YOU KNOW</p> <p>22 WHY THAT WOULD BE?</p> <p>23 A. IF THEY HAD TO SWITCH THEIR</p> <p>24 FILE NUMBER FOR TAX REASONS THEY COULD</p>
<p>338</p> <p>1 MS. KARETNICK: OBJECTION TO</p> <p>2 FORM.</p> <p>3 THE WITNESS: THE 2001.</p> <p>4 BY MR. ANDERSON:</p> <p>5 Q. 2001.</p> <p>6 A. WOULD NOT HAVE EMPLOYEES</p> <p>7 THAT WERE TERMINATED IN 2001.</p> <p>8 Q. WITH RESPECT TO GENDER, IF</p> <p>9 YOU LOOK AT COLUMN Z ON THE LEFT HAND</p> <p>10 SIDE THERE, HOW WAS GENDER ASSIGNED IN</p> <p>11 THE SYSTEM?</p> <p>12 A. IT WAS MANUALLY INPUTTED BY</p> <p>13 THE PAYROLL DEPARTMENT.</p> <p>14 Q. FROM A NEW HIRE SHEETS?</p> <p>15 A. YES.</p> <p>16 Q. WHY WOULD A PERSON BE CODED</p> <p>17 AS MALE WHO WAS A FEMALE? IN FACT IF</p> <p>18 SOMEONE INDICATED -- LET'S TURN TO PAGE 3</p> <p>19 OF THIS EXHIBIT. IS THIS THE NEW HIRE</p> <p>20 PERSONNEL INFORMATION THAT YOU'RE</p> <p>21 SPEAKING OF?</p> <p>22 A. YES.</p> <p>23 Q. AND THIS PERTAINS TO MARIE</p> <p>24 LADUCA?</p>	<p>340</p> <p>1 HAVE MORE THAN ONE LINE, LINE OF</p> <p>2 INFORMATION?</p> <p>3 Q. ANY OTHER REASON WHY THAT</p> <p>4 WOULD BE?</p> <p>5 A. IF THERE WAS DUPLICATE</p> <p>6 ENTRY, IF SOMEONE STARTED TO ENTER THE</p> <p>7 PERSON AND THEY HAD ALREADY BEEN IN THE</p> <p>8 SYSTEM.</p> <p>9 Q. IF SOMEBODY IS IN THE SYSTEM</p> <p>10 AND THEY HAVE, THEY'RE IN THE SYSTEM</p> <p>11 TWICE AND THEY HAVE THE SAME HIRE DATE</p> <p>12 BOTH TIMES WITH DIFFERENT TERMINATION</p> <p>13 DATES, DO YOU KNOW WHAT THAT WOULD MEAN?</p> <p>14 A. WELL IF WE TERMINATED THEM</p> <p>15 THAT FILE NUMBER OUT FOR A TAX REASON WE</p> <p>16 WOULD PUT THE DATE THAT WE -- THE</p> <p>17 TERMINATION DATE WOULD MEAN THE DATE THAT</p> <p>18 THE FILE WAS SWITCHED TO A NEW FILE</p> <p>19 NUMBER BUT IT WOULD HAVE THE CODE TAX</p> <p>20 CHANGE SO THAT YOU WOULD KNOW THE PERSON</p> <p>21 DID NOT QUIT, WAS NOT DISCHARGED, IT</p> <p>22 HAPPENED THE PERSON WAS TERMED IN THE</p> <p>23 SYSTEM BECAUSE OF A TAX CHANGE.</p> <p>24 Q. SO IS A TAX REASON THE ONLY</p>